

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

EQUITYBUILD, INC.,
EQUITYBUILD FINANCE, LLC,
JEROME H. COHEN, and
SHAUN D. COHEN,

Defendants.

Civil Action No. 18-CV-5587

The Honorable John Z. Lee

Magistrate Judge Young B. Kim

**RECEIVER’S RESPONSE TO OBJECTION TO
THE FOURTH MOTION FOR APPROVAL OF THE SALE OF
CERTAIN REAL ESTATE AND FOR THE AVOIDANCE
OF CERTAIN MORTGAGES, LIENS, CLAIMS, AND ENCUMBRANCES**

The Receiver’s Fourth Motion For Approval Of The Sale Of Certain Real Estate And Avoidance Of Certain Mortgages, Liens, Claims And Encumbrances (the “Fourth Motion”) seeks an order authorizing the sale of four properties: 7625-33 South East End Avenue in Chicago, Illinois (“7625-33 South East End”), 7635-43 South East End Avenue in Chicago, Illinois (“7635-43 South East End”), 7750-58 South Muskegon Avenue in Chicago, Illinois (“7750-58 South Muskegon”), and 7748-52 South Essex in Chicago, Illinois (“7748-52 South Essex”). (Docket No. 583) The purchaser, Southside Property Group, LLC, needs to close on the properties by no later than Friday, December 20, 2019, in order to avoid forfeiting its rights to defer capital gains taxation pursuant to Section 1031 of the Internal Revenue Code. (*Id.*)

No objections were filed relating to proposed sales 7625-33 South East End, 7635-43 South East End, and 7750-58 South Muskegon. As for 7748-52 South Essex, a single objection was filed by investor-lender LMJ Sales, Inc (“LMJ”). (Docket No. 596) That objection, however, is not to

“the approval of the sale of 7748-52 South Essex and having the proceeds of sale held as provided in the Fourth Motion,” but rather to the release attached as Exhibit T to the Fourth Motion. (*Id.* at 2) LMJ contends that, because it was not paid in full and did not execute a release its mortgagee interest, the release attached as Exhibit T is invalid. (*Id.* at 3-4)

This objection fails to appreciate, however, that 7748-52 South Essex is being sold free and clear of all liens, claims, and encumbrances; that all competing mortgages (including the mortgage in which LMJ participated) will continue to attach to the proceeds with equal force and effect as they did to the property; and that the proceeds will be held in a segregated account until priority determinations (including a determination of the priority of LMJ's mortgage) are made by the court following additional discovery and briefing. In other words, LMJ erroneously believes that the judicial sale for which approval is now being sought will forever extinguish its mortgage and release its claim. As the Court well knows, however, that belief is mistaken and presents no valid basis for an objection to the sale of 7748-52 South Essex.

Wherefore, the Receiver respectfully requests that the Receiver's Fourth Motion For Approval Of The Sale Of Certain Real Estate And Avoidance Of Certain Mortgages, Liens, Claims And Encumbrances be granted as soon as possible.

Dated: December 10, 2019

Respectfully submitted,

KEVIN B. DUFF, RECEIVER

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CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2019, I provided service of the foregoing via ECF filing to all counsel of record, and via electronic mail to the Defendant Jerome Cohen at jerryc@reagan.com.

By: /s/ Michael Rachlis

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